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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/729,398
Filing Date: December 05, 2003
Appellant(s): BRANDT, WILLIAM M.

Dan C. Hu
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 18, 2009 appealing from the Office action mailed March 18, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0158960	Engberg	08-2003
7340438	Nordman et al.	03-2008

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engberg (US Pub No.: 2003/0158960 A1) in view of Nordman et al. (hereinafter referred to as Nordman, US Pat. No.: 7, 340, 438 B2).

As per claim 1:

Engberg discloses a method for preventing identity theft in electronic communications, comprising the steps of:

sequencing an encryption key transaction from a trusted service for generating for an individual a consumer identifier by performing the steps of:

(0228-0229; Master key, Client keys, temporary keys; [0260] A Virtual Identity is a pseudonym for an individual created for a specific purpose. Using the Trusted Party (TP), an individual can assume use a VID to communicate, trade etc. anonymously and under full control of the process. [0265] TP--Trusted Party--is generally treated as one entity identified by a TP Token Identifier or the public key of TP (TP.Pu) that can be verified in official registers such as X500 or X509. [0366] Establish a CLIENTKey which is a general symmetric encryption key between TP and CLIENT. [0401] Secret key of VID (Cl.Vir.Pr) is known only to TP, as TP is backing the authenticity of VID to CLIENT. [0400]- [0401]).

issuing to the individual a unique identifier from said trusted service; and

([0391] Establish VID (CLIENT/COMPANY). [0395] CLIENT establishes an anonymous identity towards a relation under full CLIENT control. [0401] Secret key of VID (Cl.Vir.Pr) is known only to TP, as TP is backing the authenticity of VID to CLIENT.)

permitting the individual to generate and maintain a consumer-defined sequence through said trusted service; and

([0404] This invention works with a secret shared symmetric key SYMKEY to encrypt communication between CLIENT and COMPANY. In the following the SYMKEY is treated as if it is reused from session to session; however the SYMKEY can just as well be generated as part of establishing a session as a session specific encryption key which is saved together with communication encrypted by the public key of CLIENT (Cl.Pu).

[0405] SYMKEY can be created without revealing this to TP.)

allowing the individual to control access to commercially related use of said consumer identifier by third parties.

([0475] When creating a virtual identity on behalf of CLIENT, TP creates a new set of signature keys (Cl.Vir.Pr and Cl.Vir.Pu). TP keeps the private key Cl.Vir.Pr which is not revealed to anyone else.)

Engberg does not explicitly disclose generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual. Nordman in analogous art, however discloses generating a report when at least one of the third parties requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual (column 3: lines 20-25; column 6: lines 35-48; column 7: lines 16-23; column 8: lines 40-51; column 33: lines 63-67; column 34: lines 1-19). Therefore, it could have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the system disclosed by Engberg to include generating a report when at least one of the third parties requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual. This modification could have been obvious because a person having ordinary skill in the art would have been motivated to managing user privacy of a user operating a user device such as a wireless device in a network

environment and determine a context for interaction with a party; filtering user data, such as personal assets, to be provided to the party based on the determined context; and transmitting the filtered user data to the party as suggested by (column 1: lines 53-67).

As per claim 2:

Engberg discloses a method, comprising the steps of verifying commercially related use of said consumer identifier, comprising the steps of:

initiating a verification process from a requesting business entity via a secure connection (0737; 0743);

comparing said consumer identifier with a pre-determined set of database records using said consumer-defined sequence in response to initiating said verification process (0489);

presenting a positive or negative confirmation to said requesting business, said business having registered with said trusted service (0491); and

confirming requested information relating to the individual via said secure connection, said requested information have been pre-authorized for presenting to said requesting business entity by the individual (0490).

As per claims 3 and 12:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of reporting to the individual the number of times at least one requesting business entity has initiated a verification process (0949-0952).

As per claim 4:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of confirming requested information relating to the individual including the individual's name, address, and photograph (90279; 0341-0342).

As per claim 5:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of confirming requested information relating to the individual including the individual's fingerprints (0338-0039; 0453).

As per claim 6:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the steps of storing said consumer identifier on a remote business database system and permitting the individual to modify said consumer identifier through a secure connection to a remote location (0694-0696).

As per claim 7:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of issuing to the individual a unique identifier from said trusted service according to a pre-determined set of business rules associated with a remote business database system (0270).

As per claim 8:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of allowing the individual to control commercial transactions using said consumer identifier (0552-0556).

As per claim 9:

Engberg discloses a method and instructions stored on a computer-readable medium, comprising the step of issuing to the individual a unique identifier from said trusted service, said unique identifier conveying in encrypted information relating to the individual's age and locale (0881; 0888).

As per claims 10 and 11:

Claims 10 and 11 are a system comprising instruction stored on a computer-readable medium for performing the steps of claims 1 and 2 respectively. Claims 10 and 11 are substantially similar to their corresponding method claims 1 and 2; and therefore, they are rejected with the same rationale given to reject claims 1 and 2 respectively.

As per claim 19 and 20:

Claims 19 and 20 are a computer readable storage medium comprising instruction stored on a computer-readable medium for performing the steps of claims 1 and 2 respectively. Claims

19 and 20 are substantially similar to their corresponding method claims 1 and 2; and therefore, they are rejected with the same rationale given to reject claims 1 and 2 respectively.

(10) Response to Argument

1. Regarding Claims 1, 6-10, 15-19.

Claims 1-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Engberg (US Pub No.: 2003/0158960 A1) in view of Nordman et al. (hereinafter referred to as Nordman, US Pat. No.: 7, 340, 438 B2).

With regard to independent claim 1, the appellant is silent on Engberg's rejection of features of claim 1 in the Office Action, however the appellant disputes and argues that the citation of Nordman as failing to teach the following recited features of independent claim 1:

“generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual.”

The Office Action recites, Engberg does not explicitly disclose generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual. Nordman in analogous art, however discloses generating a report when at least one of the third parties

requests access to information related to the consumer identifier; and allowing the individual to control which of the third parties that requested access can access information related to the individual (column 3: lines 20-25; column 6: lines 35-48; column 7: lines 16-23; column 8: lines 40-51; column 33: lines 63-67; column 34: lines 1-19).

The appellant has substantively the same repeated arguments regarding the above alleged recited features of independent claim 1 and the appellant's repeated arguments are recited as follows with emphasis in bold:

[Appeal Brief: page 7: paragraph 3] Note, however, that **the request that is received is from the user to identify the same user's own information maintained at a receiving site.**

[Appeal Brief: page 7: paragraph 4] In other words, **the request from the user for the user's own information**, as taught by Nordman, **does not constitute a request from a third party**. Column 34 of Nordman continues to describe the supervising authority ensuring that the user requesting access of the user's information is in fact authorized to do so.

[Appeal Brief: page 7: paragraph 5] Providing **status information to a user in response to the request of the same user**, as taught in the cited passage in columns 33 and 34 of Nordman, **is completely different from generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier.**

[Appeal Brief: page 8: paragraph 2] The cited column 3 passage of Nordman refers to employing a trusted third party in managing privacy over user data provided from a user device of a user to a receiving party. **This is different from generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier.**

[Appeal Brief: page 9: paragraph 3-4] Note that **the status information was provided to the user in response to a request by the same user, not a response to a request by third parties.** Thus, the passage of Nordman cited by the Examiner **cannot possibly disclose or hint at allowing the individual to control which of the third parties that requested access can access information related to the individual.** In view of the above points of **error made by the Examiner**, it is clear that even if Engberg and Nordman were to be hypothetically combined, the hypothetical combination of references would not have disclosed or hinted at all elements of claim 1.

[Appeal Brief: page 9: paragraph 5] However, Nordman **describes a technique or mechanism that is also quite different from the claimed subject matter.** More specifically, Nordman relates to **a supervising authority providing status information to a user in response to the request of the same user, not in response to requests of third parties.**

The examiner disagrees with the appellant's repeated arguments and allegation regarding independent claim 1. The examiner gave the broadest reasonable interpretation to the claim in

light of the applicant disclosure and the disputed claimed features all Office correspondences have been considered as follows:

“generating a report for presentation to the individual when at least one of the third parties requests access to information related to the consumer identifier.”

The third parties requests access to information related to the consumer identifier. When at least one of the third parties requests access to the information, a report is generated and the report is to be presented to the consumer individual. The claim is broad enough and it does not specify which entity in generating a report and in what condition or when does the generated report is presented to the consumer individual. During examination, the examiner considered, the request of the third parties for consumer information is made to trusted services [Appellant Spec: 0050]. A report or status information about any request made to the trusted services by third parties regarding consumer information can be generated by trusted services. The generated report can also be presented to the consumer individual at least based on the consumer individual requesting for the generated report. Therefore, the trusted service generates the report and present it when the consumer individual request for it. It is clearly noted here that **the request to information related to the consumer identifier made by third parties is completely different from the request to the generated report made by the consumer individual.**

However, the appellant's arguments and analysis are failed to disclose which entity is generating the report, and when does the generated report is presented to the consumer individual. More importantly, the appellant generally allege in the repeated argument and failed

to distinguish the difference between the request to information related to the consumer identifier made by third parties and the request to the generated report made by the consumer individual. The claim define and specify that at least one of the third parties requests access to information related to the consumer identifier. However, the claim does not specify at least one of the third parties requests to generate the report nor request to present the generated report to the consumer individual. In view of the above points, the appellant made repeated error thought the argument s as recited above.

According to the above interpretation the examiner cited Nordman to discloses:

at least one of the third parties requests access to information related to the consumer identifier [*column 10: lines 30-33; enforce the rights management rules or monitor the use and maintenance of user information by the receiving party; column 29: lines 27-38, lines 45-50; access of user information by the receiving party; column 30: lines 15-20; authentication may be a prerequisite to conducting a session with any receiving party or generally transmitting user information to any receiving party*].

generating a report for presentation to the individual [*column 3: lines 29-33; the supervising authority may inform the with a status of the stored personal assets of the user. The status information may identify unauthorized access of the stored personal assets and/or accesses conducted by the party. column 29: lines 28-39; inform the user of the user information or status information upon predefined triggering events including violation or right rules, expiration of access authority by the receiving party; column 33: lines 36-50; column 34: lines 20-33*].

allowing the individual to control which of the third parties that requested access can access information related to the individual [*column 6: lines 50-60; the privacy level may be determined based on a user request; column 29: lines 24-26; change or update user information and/or rights management rules based on a user request; column 34: lines 45-55; supervision authority receive request from a user to change, delete and/or update user information*].

Based on the reason given above, the examiner disagrees with the applicant's argument and allegation and the examiner believes Nordman discloses the disputed features of independent claim 1 and therefore claim 1 is obvious over Engberg in view of Nordman. Independent claims 10 and 19, and their respective dependent claims are also obvious over Engberg in view of Nordman for a similar reason given to reject independent claim 1.

2. Regarding Claims 2-5, 11-14 and 20.

With regard to claims 2, 11 and 20, the appellant allege that “[*Appeal Brief: page 7: paragraph 5*]: Nowhere in Engberg is there any teaching or hint of comparing the consumer identifier (equated with the Examiner to the virtual identity of Engberg) with a predetermined set of database records using the consumer-defined sequence in response to initiating the verification process.”

The examine disagree with the argument. The examiner considered what is claimed as “**consumer Identifier**” as “**Virtual ID**” or “**VID**” in Engberg [*See Engberg: 0260: A Virtual*

Identity is a pseudonym for an individual created for a specific purpose. Using the Trusted Party (TP), an individual can assume use a VID to communicate, trade etc. anonymously and under full control of the process. A VID covers the range of communication channels and services if appropriate to the type of VID. A key element is that a VID can be eliminated without a trace except in the case of fraud or other criminal activity.]

Engberg discloses the alleged feature of **comparing the consumer identifier** [See Engberg: 0438: *authenticate the VID that includes login information, password, digital signature; 0491: company verifies signature of VID and of TP*] **with a predetermined set of database records using the consumer-defined sequence** [See Engberg: 0438: *central database, Trusted Platform maintains a database of specific VIDs*] in response to initiating the verification process. It is clear that comparing the consumer identifier with a predetermined set of database is disclosed by at least one or more of authenticate the VID including login information, password, digital signature and verifying signature of VIDs, where the trusted platform maintains database of specific VIDs. Therefore, claims 2, 11 and 20 including their respective dependent claims are rejected over Engberg in view of Nordman.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Techane J. Gergiso/

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